

## INITIAL STATEMENT OF REASONS

The California Department of Social Services (CDSS) has made the determination that these proposed regulation changes do not duplicate and are consistent with existing federal and state laws, regulations, or rulings. These proposed regulations are meant to clarify existing federal or state laws, regulations, or rulings.

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 30-701(l)(2)(A) is Renumbered from Section 30-701(l)(2)

Specific Purpose/Factual Basis:

Section 30-701(l)(2) is renumbered to Section 30-701(l)(2)(A) to accommodate in the outline the addition of Licensed Health Care Professional for Paramedical Services (LHCP-PM).

Sections 30-701(l)(2)(B) through (B)5.

Specific Purpose:

These sections are adopted to establish a clear definition of a Licensed Health Care Professional for the purpose of ordering Paramedical Services (LHCP-PM).

Factual Basis:

These sections are necessary to clarify who is considered a LHCP-PM. Welfare and Institutions Code (WIC) section 12300.1, specifies that, "...'supportive services' include those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so...." However, the statute does not define LHCP. This regulation will eliminate confusion regarding who qualifies as a LHCP for the purpose of ordering paramedical services by establishing that only physicians/surgeons, podiatrists, dentists, nurse practitioners and physician assistants are LHCPs for the purpose of ordering paramedical services. These LHCPs are designated because they have been specifically educated and trained to provide health promotion and maintenance through the diagnosis and treatment of acute illnesses and chronic conditions, and they are authorized to prescribe medications and order medical therapies and treatments. In addition, it is necessary to establish a clear definition of a LHCP-PM in order to differentiate these individuals from a broader group of LHCPs who can perform another In-Home Supportive Services (IHSS) program requirements, i.e., complete and sign the Health Care Certification form.

### Section 30-701(r)(1)

#### Specific Purpose:

These sections are amended to establish a clear definition of range of motion exercises. The definition distinguishes between two different classifications of range of motion exercises: active range of motion and passive range of motion. This distinction is imperative in determining whether the service is authorized under the paramedical services category or the repositioning and rubbing skin service category.

#### Factual Basis:

The section is necessary to provide context necessary for compliance with WIC section 12300(c)(6), which identifies range of motion exercises as one of the personal care services that may be authorized in the IHSS program.

### Sections 30-701(r)(2) and (r)(3) Renumbered from Sections 30-701(r)(1) and (r)(2)

#### Specific Purpose/Factual Basis:

Sections 30-701(r)(1) and (r)(2) are renumbered to Sections 30-701(r)(2) and (r)(3) to accommodate the inclusion of the range of motion exercises at Section 30-701(r)(1). No other changes to these sections have been made.

### Section 30-756.2(j)

#### Specific Purpose:

This regulation section lists the functions for which the designated county department shall rank the recipient. This section replaces the terminology "eating" with "feeding" to clarify and make consistent with current regulations.

#### Factual Basis:

This section is amended to clarify and make consistent with existing regulations, specifically Manual of Policies and Procedures (MPP) sections 30-701(s)(1)(C), 30-757(c) and 30-780.1(a)(6). These specified sections describe "feeding" as consumption of food and assurance of adequate fluid intake, which is more appropriate terminology to reflect the service that is being provided to the recipient, as opposed to "eating." This revision is necessary to ensure that the existing regulations are consistent and appropriately reflect the service being provided to the recipient.

#### Section 30-756.4

##### Specific Purpose:

This section is amended to specify that when conducting needs assessments counties should now assign an indicator of 6, instead of Rank 1 which was done previously, to certain functions when an individual's needs in those functions are met exclusively through the performance of a paramedical services task(s).

##### Factual Basis:

This revision is necessary to ensure that counties are aware that a new indicator of 6 has been established to assess a recipient's level of functioning in the specific authorized services of meal preparation and clean-up; feeding; bowel, bladder, and menstrual care; and/or respiration and that they understand when to assign an indicator of 6. An indicator of 6 has been established to be used in limited circumstances in order to prevent the authorization of additional service hours in related IHSS service categories when the need is to be met exclusively with paramedical services. This will ensure that recipients are authorized appropriate services and hours based on the needs assessment.

#### Section 30-756.41

##### Specific Purpose:

This section is amended to specify that counties should now assign an indicator of 6, instead of Rank 1 as previously assigned, to the meal preparation/clean-up and feeding functions when an individual's nutrition needs are being met exclusively through paramedical service tasks, such as feeding through a gastrostomy or nasogastric tube. The assigned indicator of 6 is necessary to be used as a prompt and disallow the additional authorization of IHSS hours in a related service category.

##### Factual Basis:

This revision is necessary to ensure that counties understand when it is appropriate to assign the indicator of 6 to a recipient's level of functioning in the meal preparation/clean-up and feeding functions. The assigned indicator of 6 has been established to be used in limited circumstances in order to prevent the authorization of additional service hours in related IHSS service categories when the need is to be met exclusively with paramedical services. This will ensure that recipients who are, for example, exclusively tube-fed are not inadvertently authorized duplicate hours in the meal preparation/clean-up and feeding service categories as well as in the paramedical services service category.

#### Section 30-756.42

##### Specific Purpose:

This section is amended to specify that counties should now assign an indicator of 6, instead of Rank 1 as previously assigned, in the respiration function when an individual's needs in this area are being met exclusively through paramedical service tasks such as, tracheotomy care and airway suctioning. The assigned indicator of 6 is necessary to be used as a prompt to disallow the additional authorization of IHSS hours in a related service category.

##### Factual Basis:

This revision is necessary to ensure that counties understand when it is appropriate to assign an indicator of 6 to a recipient's level of functioning in the respiration function. The assigned indicator of 6 has been established to be used in limited circumstances in order to be used as a prompt to disallow the additional authorization of IHSS hours in a related service category. This will ensure that recipients who have, for example, a tracheotomy and require airway suctioning are not inadvertently authorized duplicate hours in the respiration service category as well as in the paramedical services category.

#### Section 30-756.43

##### Specific Purpose:

This section is amended to specify that counties should now assign an indicator of 6, instead of Rank 1 as previously assigned, to the bowel, bladder, and menstrual care function when an individual's needs in these areas are being met exclusively through paramedical service tasks such as, ostomy care. The assigned indicator of 6 is necessary to be used as a prompt to disallow the additional authorization of IHSS hours in a related service category.

##### Factual Basis:

This revision is necessary to ensure that counties understand when it is appropriate to assign an indicator of 6 to a recipient's level of functioning in the bowel, bladder, and menstrual care functions. The assigned indicator of 6 has been established to be used in limited circumstances in order to be used as a prompt to disallow the additional authorization of IHSS service hours in a related category. This will ensure that recipients who require, for example, ostomy care are not inadvertently authorized duplicate hours in the bowel and bladder service category as well as in the paramedical services category.

#### Section 30-757.14(e)(3)

##### Specific Purpose:

This section is amended to clarify that allowable fingernail/toenail care tasks within the grooming service category do not include nail clipping. The amendment also deletes a language that implied that nail clipping may be authorized as a paramedical service.

##### Factual Basis:

The section is necessary to ensure that counties have a clear understanding that nail care within the grooming service category is limited to filing and buffing the nails and other similar tasks that do not involve the use of scissors, clippers, or other sharp implements. Because of the risk of potential injury to elderly or disabled individuals, nail clipping is best performed by a professional, e.g., a podiatrist; therefore, it is not a task that can be authorized in the IHSS program.

#### Section 30-757.14(g)

##### Specific Purpose:

This section is amended to clarify that only exercises classified as active range of motion are permitted to be authorized within the repositioning and rubbing skin service category.

##### Factual Basis:

The section is necessary to ensure that counties have a clear understanding that the only range of motion exercises that can be authorized under the repositioning service category are those classified as active range of motion exercises. Active range of motion are those in which the individual him/herself moves a joint through its range of motion with another person providing only supervision, not hands-on assistance, to ensure that the exercise is done correctly. Passive range of motion exercises, those in which another person provides the individual with hands-on assistance to move a joint through its range of motion, pose a risk of injury to the applicant/recipient if they are not done correctly; they should be restricted to individuals who have received training from a LHCP-PM. Therefore, passive range of motion exercises can be authorized in the IHSS program only in the paramedical services category.

Sections 30-757.14(g)(1) through 30-757.14(g)(2)

Specific Purpose:

These sections are amended to clarify that the repositioning and rubbing skin service category can be authorized due to meeting criteria listed under MPP section 30-757.14(g)(1) or, if the criteria has not been met, the county may authorize the service based on meeting the criteria listed under MPP section 30-757.14(g)(2)(A).

Factual Basis:

This amendment is necessary to clarify that counties have a clear understanding that authorization of the repositioning and rubbing skin service category is based on meeting either the criteria listed under MPP section 30-757.14(g)(1) or, if the criteria has not been met, the county may authorize the service based on meeting the criteria listed under MPP section 30-757.14(g)(2)(A).

Section 30-757.14(g)(2)(A)

Specific Purpose:

This section is amended to clarify that passive range of motion exercises and assistive walking are not activities which can be authorized within the repositioning and rubbing skin service category.

Factual Basis:

The section is necessary to ensure that counties have a clear understanding that they cannot authorize passive range of motion exercises and assistive walking under the repositioning service category. Passive range of motion exercises, those in which another person provides the individual with hand-on assistance to move a joint through its range of motion, are an allowable IHSS activity in the paramedical services category. Assistive walking is an allowable activity; however, it would be authorized under the ambulation service category.

Sections 30-757.19 and 30-757.191 through 30-757.191(c)

Specific Purpose:

These sections are amended to provide a clearer and more concise description of paramedical services and to include a reference to the regulation section which defines a LHCP-PM.

Factual Basis:

This revision is necessary to ensure that the definition of paramedical services easy to understand, and that it provides a reference to the section within the regulations which defines LHCP-PM.

Handbook Sections 30-757.191(c)(1) through (c)(1)(J)

Specific Purpose/Factual Basis:

This handbook section is adopted to provide examples to illustrate some common paramedical services tasks. This handbook has no regulatory effect.

Handbook Sections 30-757.191(c)(2) through (c)(2)(F)

Specific Purpose/Factual Basis:

This handbook section is adopted to provide examples to illustrate some common tasks which are not considered, and may not be authorized as, paramedical services. This handbook has no regulatory effect.

Sections 30-757.192 through 30-757.192(a)

Specific Purpose:

These sections are amended to establish the requirement that a LHCP-PM must order paramedical services in order for the county to authorize them.

Factual Basis:

The section is necessary to comply with WIC section 12300.1, which specifies that, "...'supportive services' include those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so..."

Section 30-757.192(a)(1)

Specific Purpose:

This section is adopted to specify that the applicant/recipient can determine which LHCP-PM he/she wishes to obtain the order for paramedical services from.

Factual Basis:

Self-direction is a fundamental component of the IHSS program. This section is necessary to ensure that an applicant/recipient is not denied the right to receive services paramedical services based on his/her choice of LHCP-PM.

Section 30-757.192(a)(1)(A)

Specific Purpose:

The section is adopted to clarify that in the event the applicant/recipient elects to obtain the order for paramedical services from a LHCP-PM who is not a Medi-Cal provider, the applicant/recipient is responsible for paying any fees charged by the LHCP-PM for any services provided, including completing the order for paramedical services, from his/her own pocket.

Factual Basis:

The costs for obtaining an order for paramedical services from a LHCP-PM who is an approved Medi-Cal provider would be covered under the Medi-Cal program. However, there may be costs incurred if an applicant/recipient were to choose to obtain an order for paramedical services from a LHCP-PM who is not an approved Medi-Cal provider. This section is necessary to ensure that the state or county is not held responsible for payment of fees or any other costs in those circumstances when an applicant/recipient chooses a LHCP-PM who is not an approved Medi-Cal provider.

Section 30-757.192(b)

Specific Purpose:

This section is adopted to establish the requirement that the order for paramedical services from the LHCP-PM must be provided on a form CDSS has developed expressly for that purpose. The form, entitled Request for Order and Consent – Paramedical Services (SOC 321), Revised XX/20XX, which is incorporated into the regulations by reference. The forms will be posted and effective upon the date these regulations go into effect, on the CDSS Forms/Brochures web page: <http://www.cdss.ca.gov/inforesources/Forms-Brochures>.

Factual Basis:

This section is necessary because the use of a standardized form will ensure that the information being requested and provided by LHCP-PMs who order paramedical services for applicants/recipients is both uniform and consistent throughout the state, and will provide social workers with the information necessary to authorize paramedical services consistent with recipients' needs. Although it is



unduly or otherwise impractical to publish the incorporated form in the Manual of Policies and Procedures, as of the effective date of these proposed regulations, it may be found on the CDSS Forms/Brochures web page at:

<http://www.cdss.ca.gov/inforesources/Forms-Brochures>.

#### Section 30-757.192(b)(1)

##### Specific Purpose:

The section is adopted to establish the requirement that the SOC 321 must be completed, signed and dated by the LHCP-PM. The Statewide Paramedical Services Time Authorization Guidelines will be provided along with the SOC 321, for the LHCP-PM to reference in ordering services and the purpose of these guidelines is to provide the LHCP-PM and counties with a tool for both consistently and accurately assessing paramedical service needs and authorizing time. The SOC 321, page 1, introduces the LHCP-PM to general guidance to the form's function; page 2, allows the county social worker to indicate the paramedical service being requested for the LHCP-PM to order; however, the social worker is not required to do so. The county social worker or public health nurse is the point of contact listed on page 2 of the form and it is required that he/she provides his/her name, signature, telephone number and email. Sections 1 and 2 of the SOC 321 identify the LHCP's professional information for qualification of provisions of WIC section 12300.1 and documenting a general assessment of the patient's need for assistance.

##### Factual Basis:

The section is necessary to ensure that the paramedical services are being ordered, which includes a general assessment of the patient's need for assistance, by a qualified LHCP-PM as required pursuant to WIC section 12300.1, which specifies that, "...supportive services' include those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so..." The signatures (i.e., social worker/public health nurse's, LHCP-PM's, and recipient's) are necessary to validate 1) the social worker as the point of contact for the LHCP-PM; 2) LHCP-PM who is ordering the service as specified in WIC section 12300.1; and 3) the recipient's informed consent as specified in WIC section 12300.1. The date for each signature indicates when the form was completed, which is important because it ensures that the form provides current information about the applicant's/recipient's needs. The Statewide Paramedical Services Time Authorization Guidelines are necessary to assist LHCP-PMs in authorizing the appropriate estimate of the time required to perform each ordered paramedical task, and to ensure that the authorization of paramedical services is consistent statewide. Many LHCP-PMs do not have experience with the IHSS program and may not understand which tasks should be authorized under paramedical services and which tasks fit within other service categories. This has resulted in significant differences in the amount of time authorized for paramedical

services which are essentially the same. The introduction page of the form is needed to guide the LHCP-PMs without IHSS program experience.

To develop the Statewide Paramedical Services Time Authorization Guidelines, CDSS convened a workgroup comprised of Public Health Nurses who have experience in the IHSS program. The workgroup consisted of 16 registered nurses, 15 of whom are Licensed Public Health Nurses. Various titles and degrees held among group members included Bachelor of Science in Nursing, Master of Science in Nursing, Certified Case Manager, and Supervisor. The workgroup had a combined experience of over 58 years of registered nursing practice, 40 years of public health nursing experience, and 20 years of experience in the IHSS program. The time ranges developed for paramedical services were based upon a combination of standard medical practices and procedures as noted in credible medical sources such as, Seattle Children's Hospital Research Foundation, Duke University Health System, Centers for Disease Control and Prevention, and Johns Hopkins Medicine. The time ranges were also developed through the workgroup's combined nursing experience and their subject matter expertise of the IHSS program.

#### Section 30-757.192(b)(1)(A)

##### Specific Purpose:

This section is adopted to establish the factors which would require updates to the Statewide Paramedical Services Time Authorization Guidelines. The guidelines will be updated based upon advances in medicine, new medical information, or when the CDSS determines it is necessary. The guidelines will be reviewed on an as needed basis to determine whether updates are required to reflect current medical procedures. Updated information to the guidelines may include but is not limited to removing or adding paramedical services, updating corresponding time ranges, or changing existing time ranges.

##### Factual Basis:

This section is necessary to ensure the Statewide Paramedical Services Time Authorization Guidelines have current paramedical tasks and corresponding time ranges to meet the requirements of WIC section 12300.1, which defines what the IHSS program authorizes as a paramedical service. The updates to the guidelines will ensure that Licensed Health Care Professionals and counties authorize the appropriate paramedical tasks and associated times for IHSS applicants/recipients to reflect current medical procedures and practices.

Section 30-757.192(b)(2)

Specific Purpose:

This section is adopted to specify what information the LHCP-PM must provide on the SOC 321.

Factual Basis:

This section is necessary because it describes the elements that must be included on the SOC 321 in order for it to be considered valid. If any of the required elements are omitted, the county cannot accept the form and use it to authorize paramedical services.

Section 30-757.192(b)(2)(A)

Specific Purpose:

This section is adopted to specify that the LHCP-PM must indicate on the SOC 321 every individual paramedical services task that he/she is ordering for the applicant/recipient.

Factual Basis:

This section is necessary to ensure that the county has complete information about the paramedical services needs of the applicant/recipient so that the county can authorize the appropriate amount of time to perform the necessary tasks.

Section 30-757.192(b)(2)(A) 1.

Specific Purpose:

This new regulation specifies that the county should not authorize services listed on the SOC 321 ordered by the LHCP-PM if those services do not meet the regulatory definition of a paramedical service, per MPP section 30-757.191.

Factual Basis:

This section is necessary to ensure that the county has a clear understanding that, although a LHCP-PM lists a service on the SOC 321, if the service itself does not meet the definition of a paramedical service, as defined by WIC section 12300.1, the county may not authorize it as an IHSS.

#### Section 30-757.192(b)(2)(B)

##### Specific Purpose:

This section is adopted to specify that the LHCP-PM must indicate on the SOC 321 the amount of time he/she estimates it will take to perform each individual paramedical services task that he/she is ordering for the applicant/recipient.

##### Factual Basis:

This section is necessary because the LHCP-PM's estimate of the time required to perform each ordered task will assist the county in determining how much time to authorize for the applicant/recipient.

#### Section 30-757.192(b)(2)(B) 1.

##### Specific Purpose:

This section is adopted to specify that, if the LHCP-PM indicates on the SOC 321 that the amount of time he/she estimates it will take to perform a specific paramedical services task is outside the time standards for that particular task, the LHCP-PM must provide a brief explanation to justify the need for additional time to perform the task. The Statewide Paramedical Services Time Authorization Guidelines is a document developed by CDSS that lists time standards for performing various paramedical services tasks. The document may be accessed on the CDSS web site.

##### Factual Basis:

This section is necessary to ensure that the county has all the necessary information about the paramedical services needs of the applicant/recipient so that the county can authorize the appropriate amount of time. In order to make this determination, it is critical that the county is aware of any particular reason(s) that the individual may require more than the standard amount of time to have the task performed for him/her.

#### Section 30-757.192(b)(2)(B) 2.

##### Specific Purpose:

This section is adopted to specify that, if a task is not listed in the Statewide Paramedical Services Time Authorization Guidelines, the county must authorize the amount of time the LHCP-PM has indicated on the SOC 321, if authorization of the paramedical task is allowable pursuant to Section 30-757.191.

Factual Basis:

This section is necessary to ensure that the county authorizes the amount of time indicated on the SOC 321 by the LHCP-PM, pursuant to WIC section 12300.1, when the paramedical task is not listed in the Statewide Paramedical Services Time Authorization Guidelines. However, the task must meet the criteria to be authorizable under the paramedical services category pursuant to MPP section 30-757.191.

Section 30-757.192(b)(2)(C)

Specific Purpose:

This section is adopted to specify that the LHCP-PM must indicate on the SOC 321 how often each individual paramedical services task he/she is ordering for the applicant/recipient must be performed in a specified period of time, e.g. per day, per week.

Factual Basis:

This section is necessary to ensure that the county has information about the frequency of paramedical services tasks so that the county can authorize the appropriate amount of time to perform the necessary tasks.

Section 30-757.192(b)(2)(D)

Specific Purpose:

This section is adopted to specify that the LHCP-PM must indicate on the SOC 321 how long the order for paramedical services is to remain in effect before it expires.

Factual Basis:

This section is necessary to ensure that the county is informed by the LHCP-PM how long the order for paramedical services is to remain in effect. This information is necessary so that the county can authorize paramedical services for an applicant/recipient for the appropriate length of time and services do not continue beyond the time that they have been ordered by the LHCP-PM.

Section 30-757.192(b)(2)(D)1.

Specific Purpose:

This section is adopted to establish the requirement that a new SOC 321 must be provided if the applicant/recipient continues to need paramedical services beyond the end date the LHCP-PM has indicated on the original SOC 321.

Factual Basis:

This section is necessary to ensure that the county does not continue to authorize paramedical services for an applicant/recipient beyond the time that the services have been ordered by the LHCP-PM. It is important that a new SOC 321 be provided once the original one has expired because the individual's condition may have changed over the course of time and, consequently, his/her need for paramedical services may have increased, decreased, or otherwise changed. A requirement to provide a new SOC 321 is necessary to accurately reflect the individual's current paramedical service needs.

Section 30-757.192(b)(3)

Specific Purpose:

This section is adopted to specify that the SOC 321 includes a statement of informed consent. The applicant/recipient (or his/her guardian, conservator, or authorized representative), by signing the SOC 321, acknowledges that he/she has been advised of the potential risks associated with the provision of paramedical services, and he/she agrees to have the paramedical services performed by his/her IHSS provider.

Factual Basis:

This section is necessary to comply with WIC section 12300.1 which specifies that, "...necessary services shall be rendered by a provider under the direction of a licensed health care professional, subject to the informed consent of the recipient obtained as a part of the order for services."

Section 30-757.192(c)

Specific Purpose:

This section is adopted to specify that the SOC 321 must be dated no more than 60 days prior to the date it is submitted to the county.

Factual Basis:

This section is necessary to ensure that the county has the most up-to-date health information so that they can properly assess the applicant's paramedical needs. The 60-day timeframe is being established because health conditions can change rapidly, and it is vital that the county have the most current information when assessing the applicant's need for paramedical services, since these services are necessary to maintain the individual's health and to remain safely in his/her own home.

#### Section 30-757.192(d)

##### Specific Purpose:

This section is adopted to specify that the county must not wait until it has received the completed SOC 321 before authorizing the other supportive services that the applicant/recipient has been determined eligible to receive and is in need of.

##### Factual Basis:

This section is necessary to ensure that an applicant/recipient is not deprived of other supportive services he/she has been determined eligible for and is in need of in order to remain safely in his/her own home during the period of time in which the county is awaiting receipt of the LHCP-PM's order for paramedical services. Delaying the authorization of needed services could put the individual at risk of placement in out-of-home care.

#### Section 30-757.192(d)(1)

##### Specific Purpose:

This section is adopted to specify that, if the county has not received the completed SOC 321 within the standard eligibility determination timeframe, which is set forth in MPP section 30-759.2, the county must authorize all other supportive services it has determined the applicant is eligible for without delay. Then later, once the county receives the completed SOC 321, the county must increase the individual's authorized hours based on the information provided on the SOC 321 by the LHCP-PM.

##### Factual Basis:

This section is necessary to ensure that an applicant/recipient is not deprived of other supportive services he/she has been determined eligible for and in need of in order to remain safely in his/her own home during the period of time in which the county is awaiting receipt of the LHCP-PM's order for paramedical services. Authorizing other needed services in the interim period before the SOC 321 is received by the county will help to ensure that the applicant can remain safely in her/her own home.

#### Section 30-757.192(e)

##### Specific Purpose:

This section is adopted to specify that, in determining how much time to authorize for specific paramedical services tasks that the LHCP-PM has ordered for an applicant/recipient, the county should refer to the Statewide Paramedical Services

Time Authorization Guidelines. This is a document that has been developed by CDSS and lists typical time standards for performing various paramedical services tasks. The document may be accessed on the CDSS web site.

Factual Basis:

This section is necessary to ensure that counties have a clear understanding of the appropriate use of the Statewide Paramedical Services Time Authorization Guidelines. The guidelines have been developed by CDSS to provide counties with a standard amount or range of time to perform paramedical services tasks most commonly ordered by LHCP-PMs. The Guidelines will help to ensure uniformity and consistency in the authorization of time for paramedical services tasks from worker to worker and county to county. Without some established standards, there can be significant variances in the amount of time authorized for the same task despite no special circumstances justifying the difference, resulting in inequities among applicant's/recipient's authorized hours.

Section 30-757.192(e)(1)

Specific Purpose:

This section is adopted to specify that the time authorized to perform a paramedical services task(s) is to be based on the time it would take for an average person to perform the task for the recipient. Neither the specific individual's level of skill in performing the task nor the time it takes a specific individual to perform the task should be considered as a factor when the county authorizes time for the performance of paramedical tasks.

Factual Basis:

This section is necessary to establish that, although there are differing levels of skill among providers, the amount of time authorized for performing a specific paramedical services task(s) is to be based on the time it takes for an average person to perform the task for the recipient. An applicant/recipient is permitted to choose the provider of his/her choice to perform all of his/her authorized services, including paramedical services. One provider may have significant experience in performing paramedical services tasks; for example, he/she may have previously worked in the medical field. Due to his/her experience and level of skill, this individual would likely be able to perform paramedical services task(s) more quickly than the average person. Conversely, another provider may have a physical limitation that causes him/her to take longer to perform the paramedical services task(s) than the average person. The county should not authorize less time for paramedical services for an applicant/recipient who receives paramedical services from the more highly skilled provider than it would for an applicant/recipient whose provider takes more time to perform the service task due to his/her skill level or abilities. To ensure equity, time authorization within paramedical services needs to



be uniform and consistent; therefore, it should be based on an average person's, not a specific individual's, ability to perform paramedical services tasks.

Sections 30-757.192(e)(2) and (e)(2)(A)

Specific Purpose:

These sections are adopted to specify how counties should determine the appropriate amount of time to authorize for paramedical services.

Factual Basis:

These sections are necessary to establish a standard process counties should utilize in order to promote uniformity and consistency in the authorization of time for performance of paramedical services tasks.

Sections 30-757.192(e)(2)(B) and (e)(2)(B)1.

Specific Purpose:

These sections are adopted to specify that if the estimated amount of time to perform a specific paramedical task indicated on the LHCP-PM's order for paramedical services is consistent with the amount or range of time listed in the Statewide Paramedical Services Time Authorization Guidelines, the county should authorize the amount of time the LHCP-PM has indicated.

Factual Basis:

These sections are necessary to ensure that the county has a clear understanding of the appropriate amount of time to authorize for paramedical services in those situations when the time the LHCP-PM has estimated to perform a specific paramedical task conforms to the Statewide Paramedical Services Time Authorization Guidelines.

Sections 30-757.192(e)(2)(B)(2) and (e)(2)(B)2.(i)

Specific Purpose:

These sections are adopted to specify that if the estimated amount of time to perform a specific paramedical task indicated on the LHCP-PM's order for paramedical services is not consistent with the amount or range of time listed in the Statewide Paramedical Services Time Authorization Guidelines, but the LHCP-PM has provided a justification for estimating more (or less) time, the county should authorize the amount of time the LHCP-PM has indicated.

#### Factual Basis:

These sections are necessary to ensure that the county has a clear understanding of the appropriate amount of time to authorize for paramedical services in those situations when the time the LHCP-PM has estimated to perform a specific paramedical task does not conform to the Statewide Paramedical Services Time Authorization Guidelines, but he/she has provided a justification for estimating more or less time. The Statewide Paramedical Services Time Authorization Guidelines provide standards for the amount of time it would take for an average provider to perform a specific paramedical services task for an average applicant/recipient. However, each applicant/recipient will have different needs based on his/her specific health conditions and circumstances, and these needs are best known by the LHCP-PM ordering paramedical services. Similar to the Hourly Task Guidelines, established pursuant to WIC section 12301.2, which are utilized to ensure uniformity and consistency in the authorization of time for other types of services authorized in the IHSS program, and allow for exceptions when a recipient's special needs have been documented, the Statewide Paramedical Services Time Authorization Guidelines may be exceeded when the LHCP-PM provides a sufficient justification for doing so.

#### Section 30-757.192(e)(2)(B)2.(ii)

#### Specific Purpose:

This section is adopted to specify what steps the county should take when the estimated amount of time to perform a specific paramedical task indicated on the LHCP-PM's order for paramedical services is not consistent with the amount or range of time listed in the Statewide Paramedical Services Time Authorization Guidelines and the LHCP-PM has failed to provide a justification for estimating more (or less) time. Under these circumstances, the county should contact the LHCP-PM to attempt to obtain the omitted justification. If the county is able to obtain the information, the county should document the justification provided by the LHCP-PM during the interaction on the SOC 321 and should authorize the amount of time the LHCP-PM has indicated.

#### Factual Basis:

This section is adopted to establish procedures that the county should follow when the order for paramedical services from the LHCP-PM is missing the justification for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines. This procedure has been established because it provides for a more expeditious resolution of a potentially common problem with the SOC 321 than rejecting the incomplete form outright and returning it back to the LHCP-PM for completion. This will ensure that the authorization of needed paramedical services for the applicant/recipient is not unnecessarily delayed.

Section 30-757.192(e)(2)(B)2.(ii)l.

Specific Purpose:

This section is adopted to specify what steps the county should take when it has attempted, but been unsuccessful in, contacting a LHCP-PM who failed to include a justification on the SOC 321 for paramedical services for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines. Under these circumstances, the county should document the unsuccessful attempts (i.e., dates and times of calls) on the SOC 321 and then authorize time based on the Statewide Paramedical Services Time Authorization Guidelines rather than what the LHCP-PM has indicated.

Factual Basis:

This section is necessary to establish procedures that the county should follow to authorize time for the performance of paramedical services tasks when, after a good faith effort has been made, the county is unable to obtain from the LHCP-PM a justification for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines.

Sections 30-757.192(e)(2)(B)2.(ii)l.a. and (e)(2)(B)2.(ii)l.b.

Specific Purpose:

These sections are adopted to specify the correct time the county should authorize if the LHCP-PM has indicated a time outside of the Statewide Paramedical Services Time Authorization Guidelines. If the LHCP-PM has indicated an amount of time below the range specified in the guidelines, the county shall authorize the lowest amount of time that is indicated in the time range for the specific paramedical service task. If the LHCP-PM has indicated an amount of time above the range specified in the guidelines the county shall authorize the highest time indicated in the range.

Factual Basis:

These sections are necessary to specify the time the county shall authorize when a LHCP-PM has listed a time outside of the guidelines and has not provided a justification. This will ensure that the county has authorized an appropriate amount of time for the corresponding paramedical task and ensures uniformity and consistency in the authorization of paramedical services, when the LHCP-PM has not provided the required justification.

Section 30-757.192(e)(2)(B)2.(ii)II.

Specific Purpose:

This section is adopted to specify what steps the county should take when, after it has authorized time for paramedical services tasks based on the Statewide Paramedical Services Time Authorization Guidelines (rather than what the LHCP-PM indicated in his/her order for paramedical services) because the LHCP-PM did not include a justification on the SOC 321, and the county was unsuccessful after multiple attempts to contact the LHCP-PM to obtain the justification, the LHCP-PM subsequently provides the justification for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines. In such a situation, the county must change the time authorization for paramedical services to reflect the amount of time the LHCP-PM has indicated.

Factual Basis:

This section is necessary to establish procedures that the county should follow in situations such as those described above. The Statewide Paramedical Services Time Authorization Guidelines provide standards for the amount of time it would take for an average provider to perform a specific paramedical services task for an average applicant/recipient. However, each applicant/recipient will have different needs based on his/her specific health conditions, and these needs are best known by the LHCP-PM ordering paramedical services. Similar to the Hourly Task Guidelines, established pursuant to WIC section 12301.2, which are utilized to ensure uniformity and consistency in the authorization of time for other types of services authorized in the IHSS program, and allow for exceptions when a recipient's special needs have been documented, the Statewide Paramedical Services Time Authorization Guidelines may be exceeded when the LHCP-PM provides a justification for doing so.

Section 30-757.192(e)(2)(B)2.(ii)II.a.

Specific Purpose:

This section is adopted to specify that when the county subsequently obtains justification from a LHCP once it has already authorized time for paramedical services tasks based on the Statewide Paramedical Services Time Authorization Guidelines (rather than what the LHCP-PM indicated in his/her order for paramedical services) because the LHCP-PM did not include a justification on the SOC 321, and the county was unsuccessful after multiple attempts to contact the LHCP-PM to obtain the justification, the effective date for changing the time authorization for paramedical services to reflect the amount of time the LHCP-PM can be retroactive if the conditions specified in MPP section 30-757.193(d) are met.

Factual Basis:

This section is necessary to ensure that the county has a clear understanding of when the effective date for a change in authorization for paramedical services based on the situation described above can be made retroactive. Allowing the effective date of the change to be retroactive to a date previous to when the justification for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines was finally obtained from the LHCP-PM will ensure that the applicant/recipient is not negatively impacted by the delay in obtaining the justification.

Section 30-757.192(e)(2)(C)

Specific Purpose:

This section is adopted to specify that the county must assess whether the justification by the LHCP-PM is reasonable for estimating time outside the Statewide Paramedical Services Time Authorization Guidelines. If the county determines that the justification is not reasonable, the county must authorize the time based on the in-home assessment and the Statewide Paramedical Services Time Authorization Guidelines.

Factual Basis:

This section is necessary to ensure that the justification by the LHCP-PM supports the time indicated on the SOC 321 and provides the county a clear understanding of how it must authorize time when the justification provided by the LHCP-PM is not sufficient.

Section 30-757.192(f)

Specific Purpose:

This section is adopted to specify that, in situations when paramedical services have already been authorized but a recipient has a need for a change in time to perform a previously authorized tasks (e.g., there is a need for a task to be performed more frequently than when the LHCP-PM initially ordered it) or he/she needs other paramedical tasks than those previously authorized, the county must obtain a new order for paramedical services from the LHCP-PM which reflects the recipient's change in needs. The time authorization for paramedical services cannot be increased until the new SOC 321 has been received.

Factual Basis:

This section is necessary to ensure that the county has a clear understanding of when it must require that the recipient obtain an updated order for paramedical services from the LHCP-PM. Requiring a new SOC 321 from the recipient will

ensure that the appropriate amount of time is authorized for the performance of all the recipient's needed paramedical services tasks. It will also ensure that only those paramedical services tasks that have been ordered by the LHCP-PM are being performed for the recipient.

#### Section 30-757.192(f)(1)

##### Specific Purpose:

This section is adopted to specify that upon receipt of an updated SOC 321 to increase the amount of time to perform a currently authorized paramedical service(s) or to add a newly authorized paramedical service(s), that retroactive payment can be made only when the two following conditions have been met: 1) the paramedical services task that were performed for the recipient or applicant were the same as those that the LHCP-PM ordered on the SOC 321 and those services ordered are consistent with the Social Worker's documentation; and 2) the provider who performed the specific paramedical services tasks had received the required training on those specific paramedical services tasks from the LHCP-PM before he/she performed them for the recipient. The final condition can be verified by reviewing the section of the updated SOC 321 (Section 5) and/or SOC 321A, which identifies the individuals the LHCP-PM has trained in the specific paramedical tasks being ordered for the applicant/recipient.

##### Factual Basis:

This section is necessary to ensure that counties have a clear understanding of the conditions under which payment can be made retroactively for a currently authorized paramedical service(s) in which time is being increased and for a newly authorized paramedical service(s) provided to a recipient before the county received the updated SOC 321.

#### Sections 30-757.193 through 30-757.193(a)(1)

##### Specific Purpose:

These sections are adopted to specify that any authorized paramedical services tasks are to be performed by an applicant's/recipient's normal provider(s) and that no special credentials may be required of individuals who perform paramedical services tasks for applicants/recipients.

##### Factual Basis:

These sections are necessary to ensure that counties have a clear understanding that paramedical services tasks need not be performed by providers with special credentials or a medical education, knowledge, or background (other than the required training by the LHCP-PM who orders the paramedical services for the

applicant/recipient). Paramedical services tasks can be performed by the same providers who perform domestic and related services tasks and/or personal care services tasks for the applicant/recipient.

#### Section 30-757.193(b)

##### Specific Purpose:

This section is adopted to specify that a provider must receive training from an applicant's/recipient's LHCP-PM in each specific paramedical service task an applicant/recipient needs before the individual can provide paramedical services to an applicant/recipient. This section also specifies that a provider is prohibited from receiving payment for performing paramedical services for an applicant/recipient if he/she has not first been trained by the LHCP-PM.

##### Factual Basis:

This section is adopted to comply with WIC section 12300.1, which specifies that paramedical services, "shall be rendered by a provider under the direction of a licensed health care professional...." This section will ensure that counties understand that a provider must be trained in the performance of the specific paramedical services task(s) by the LHCP-PM who has ordered the paramedical services task for the applicant/recipient. In addition, before a provider can receive payment from the IHSS program for performing a paramedical services task(s) for an applicant/recipient, the individual must have received training in the performance of that task(s) from the LHCP-PM.

#### Section 30-757.193(b)(1)

##### Specific Purpose:

This section is adopted to specify how the provider can provide evidence of training and the county can confirm that a provider has received the required training by the LHCP-PM on the specific paramedical services tasks ordered for the applicant/recipient. The Provider Self-Certification of Completion of Training in the Provision of Paramedical Services form (SOC 321A) (XX/20XX) is incorporated by reference, in its entirety, at this point because it is first mentioned here in regulations. The SOC 321A documents the IHSS recipient's name and case number, the provider's name and provider number, the LHCP-PM profession that directed training for the provider, name and phone number of LHCP-PM, type of training, date training received, a declaration with provider signature and date signed. The SOC 321A also provides the counties recording of Social Worker information for approving file.

Factual Basis:

This section is necessary to establish a uniform and consistent process that the county can use to positively determine that the necessary training of the provider by the LHCP-PM has occurred, which includes the necessary incorporation of SOC 321A, so that the provider can be allowed to perform the ordered paramedical services tasks and receive payment for performance of them. The SOC 321 and/or the SOC 321A, identifies the individuals the LHCP-PM has trained in the specific paramedical tasks being ordered for the applicant/recipient. Although it is unduly or otherwise impractical to publish the incorporated form in the Manual of Policies and Procedures, as of the effective date of these proposed regulations, it may be found on the CDSS Forms/Brochures web page at:  
<http://www.cdss.ca.gov/inforesources/Forms-Brochures>.

Section 30-757.193(b)(2)

Specific Purpose:

This section is adopted to specify how the county can confirm that a new provider for a recipient, e.g., an individual who is newly hired or an existing provider who has performed other services for the recipient but not paramedical services tasks, has received the required training by the LHCP-PM on the specific paramedical services tasks ordered for the applicant/recipient.

Factual Basis:

This section is necessary to establish a uniform and consistent process that the county can use to positively determine that the necessary training of a new provider by the LHCP-PM has occurred so that the new provider can be allowed to perform the ordered paramedical services tasks and receive payment for performance of them.

Section 30-757.193(c)

Specific Purpose:

The section is adopted to specify that the rate of pay for providing paramedical services is equivalent to the rate of pay for providing any other supportive services.

Factual Basis:

This section is necessary to establish the fact that there is no premium pay rate for the performance of paramedical services tasks for an applicant/recipient.



#### Section 30-757.193(d)

##### Specific Purpose:

This section is adopted to specify that the county cannot authorize paramedical services for an applicant/recipient until it has received the completed SOC 321, either from the applicant/recipient him/herself or directly from the LHCP-PM.

##### Factual Basis:

The section is necessary to comply with WIC section 12300.1, which specifies that, "...'supportive services' include those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so...." The county cannot ensure that paramedical services have been ordered for an applicant/recipient by a LHCP-PM until the completed SOC 321 has been received by the county and reviewed to ensure it provides all of the necessary information.

#### Sections 30-757.193(d)(1) through 30-757.193(d)(2)(B)

##### Specific Purpose:

These sections are adopted to specify the circumstances under which payment can be made retroactively for paramedical services provided to an applicant and recipient before the county received the completed SOC 321. These regulations provide that retroactive payment can be made only when the two following conditions have been met: 1) the paramedical services task that were performed for the applicant and recipient were the same as those that the LHCP-PM ordered on the SOC 321 and those ordered are consistent with the county Social Worker's documentation; and 2) the provider who performed the specific paramedical services tasks had received the required training on those specific paramedical services tasks from the LHCP-PM before he/she performed them for the applicant/recipient. The final condition can be verified by reviewing the section of the SOC 321 (Section 5) and/or SOC 321A, which identifies the individuals the LHCP-PM has trained in the specific paramedical tasks being ordered for the applicant/recipient.

##### Factual Basis:

These sections are necessary to ensure that counties have a clear understanding of the conditions under which payment can be made retroactively for paramedical services provided to an applicant and recipient before the county received the completed SOC 321.

#### Section 30-757.193(d)(3)

##### Specific Purpose:

This section is adopted to specify that, if the conditions in MPP section 30-757.193(d) are not met, the county must authorize paramedical services retroactively to the date the LHCP-PM signed the SOC 321, if authorization is allowable, as described in MPP section 30-757.193.

##### Factual Basis:

This section is necessary to establish regulatory support of the retroactive date to authorize paramedical services if the conditions under MPP section 30-757.193(d) have not been met.

#### Section 30-757.194

##### Specific Purpose:

This section is repealed because it has been replaced by newly adopted MPP section 30-757.192(b)(2)(B), which includes similar language.

##### Factual Basis:

This revision is necessary to improve organization of the regulations and allow for inclusion of more detailed requirements and procedures regarding the authorization of time for paramedical services tasks.

#### Section 30-757.195

##### Specific Purpose:

This section is repealed because it has been replaced by newly adopted MPP sections 30-757.193(a) and 30-757.193(c), which include comparable language.

##### Factual Basis:

This revision is necessary to improve organization of the regulations.

#### Section 30-757.196

##### Specific Purpose:

This section is repealed because it has been replaced by newly adopted MPP sections 30-757.192(b) and 30-757.192(b)(3), which include similar language.

Factual Basis:

This revision is necessary to improve organization of the regulations.

Section 30-757.197

Specific Purpose:

This section is repealed because it has been replaced by newly adopted MPP sections 30-757.192(d) and 30-757.192(d)(1), which include comparable language.

Factual Basis:

This revision is necessary to improve organization of the regulations.

Section 30-757.198

Specific Purpose:

This section is repealed because it has been replaced by newly adopted MPP sections 30-757.192(c) and 30-757.193(d) through 30-757.193(d)(2)(3), which include comparable language.

Factual Basis:

This revision is necessary to improve organization of the regulations.

b) Identification of Documents Upon Which Department Is Relying

The CDSS is relying on the WIC sections 10554, 12300.1, and 12301.2 to clarify existing Paramedical Services regulations which will help to ensure uniformity and consistency in the authorization of time for paramedical service tasks throughout counties for the IHSS program.

c) Local Mandate Statement

These regulations constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement, which is provided in the Budget Act to cover any costs that local agencies may incur.

d) Statement of Alternatives Considered

In developing the regulatory action, CDSS considered the following alternatives with the following results: Currently, no alternatives have been presented for consideration.

Workgroups were held with counties, stakeholders, and advocacy groups to discuss the program and no other alternatives were identified or brought to the attention of CDSS that would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact on Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the fact that the regulations only apply to county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services.

f) Economic Impact Assessment

In accordance with Government Code section 11346.3(b), CDSS has made the following assessment regarding these regulations. The CDSS has made an initial determination that there is no impact on California businesses as a result of adopting these regulations because the rules only apply to county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

***Creation or Elimination of Jobs within the State of California***

The proposed regulations establish policies and procedures for counties to follow to ensure the consistent and uniform application of the requirements for the provision of paramedical services within the IHSS program. The proposed regulations only impact county agencies that administer the IHSS program, IHSS

applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Thus, CDSS has determined that the proposed regulations will not result in the creation or elimination of jobs within the state.

### ***Creation of New or Elimination of Existing Businesses within the State of California***

As noted above, the proposed regulations establish policies and procedures for counties to follow to ensure the consistent and uniform application of the requirements relating to paramedical services in the IHSS program. The proposed regulations only impact county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Therefore, CDSS has made a determination that the proposed regulations will neither create new businesses nor eliminate existing businesses within California.

### ***Expansion of Businesses or Elimination of Existing Businesses within the State of California***

The proposed regulations establish policies and procedures for counties to follow to ensure the consistent and uniform application of the requirement for authorization and provision of paramedical services within the IHSS program. As such, they only impact county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Therefore, CDSS has determined that the proposed regulations will have no impact on the expansion or elimination of businesses within the state of California.

### ***Benefits of the Regulations***

The benefits of the regulatory action to the health and welfare of California residents, workers safety, and the state's environment are as follows: The primary benefit of the proposed regulations is that program stakeholders, including county agencies that administer the IHSS program, IHSS applicants/recipients, advocates for IHSS applicants/recipients, and others, will have a clear understanding of the most up-to-date rules relating to the authorization and provision of paramedical services within the IHSS program. Regulations relating to paramedical services were first promulgated in 1979, and they have not been updated since 1993. There are no additional benefits for worker safety or the state's environment, as the regulations only affect county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Because these regulations apply only to individuals

applying for or receiving IHSS, they do not impose any additional costs or fees on individuals, nor will they result in higher product prices or in diminished product choices or quality of good and services produced in the private sector. There is no specific benefit to the health or welfare of the state's workers or its environment.

### ***Documents Relied Upon***

The CDSS is relying on the WIC sections 10554, 12300.1, and 12301.2 to clarify existing Paramedical Services regulations which will help to ensure uniformity and consistency in the authorization of time for paramedical service tasks throughout counties for the IHSS program.

#### **g) Benefits Anticipated from Regulatory Action**

The primary benefit of the proposed regulations is that program stakeholders, including county agencies that administer the IHSS program, IHSS applicants/recipients, advocates for IHSS applicants/recipients, and others, will have a clear understanding of the most up-to-date rules relating to the authorization and provision of paramedical services within the IHSS program. Regulations relating to paramedical services were first promulgated in 1979, and they have not been updated since 1993. There are no additional benefits for worker safety or the state's environment, as the regulations only affect county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Because these regulations apply only to individuals applying for or receiving IHSS, they do not impose any additional costs or fees on individuals, nor will they result in higher product prices or in diminished product choices or quality of good and services produced in the private sector. There is no specific benefit to the health or welfare of the state's workers or its environment.

#### **h) Statement of Specific Technology or Equipment**

This regulatory action will not mandate the use of new, specific technologies or equipment.